



Open Media Boston
9 Hamilton Place, Suite 2A, Boston, MA 02108

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CLERK COURT

FEB 12 2014

UNITED STATES DISTRICT COURT
BOSTON, MASSACHUSETTS

480 Broadway, Apt. 3
Somerville, MA 02145

Robert M. Farrell, Clerk of Court,
US District Court, District of Massachusetts
John Joseph Moakley U.S. Courthouse
One Courthouse Way
Boston, MA 02210

February 2, 2014

RE: PACER Discretionary Fee Exemption for 501(c)(3) Organization

Dear Mr. Farrell or whomever it may concern,

I am making a formal request for an exemption from discretionary fees for accessing the Public Access to Court Electronic Records (PACER) system on behalf of Open Media Boston.

Open Media Boston is a public-interest media project of Media Working Group, a 501(c)3 tax-exempt non-profit organization, Employer Identification number 31-1241613

This requests comes under Section 9, 'Free Access and Exemptions,' of PACER's Electronic Public Access Fee Schedule (Issued in accordance with 28 U.S.C. § 1913, 1914, 1926, 1930, 1932) available at the following web address: pacer.gov/documents/epa_feesched.pdf

According to the Fee Schedule,

"Courts may exempt certain persons or classes of persons from payment of the user access fee. Examples of individuals and groups that a court may consider exempting include: indigents, bankruptcy case trustees, pro bono attorneys, pro bono alternative dispute resolution neutrals, **Section 501(c)(3) not-for-profit organizations**, and individual researchers associated with educational institutions. Courts should not, however, exempt individuals or groups that have the **ability to pay** the statutorily established access fee. Examples of individuals and groups that a court should not exempt include: local, state or federal government agencies, **members of the media**, privately paid attorneys or others who have the ability to pay the fee." (Emphasis mine)

Open Media Boston, as a public interest and nonprofit project of the 501(c)(3)-registered Media Working Group, should be considered exempt under this clause in the Fee Schedule. Though Open Media Boston is a media organization, it is somewhat unique as a noncommercial operation, and should not be considered a typical member of the media. Open Media Boston is funded primarily through foundation and private donations, and does not have access to the kind of revenue available to a commercial, for profit, media outlet.

According to the Fee Schedule, "those seeking an exemption [must] have demonstrated that an exemption is necessary in order to avoid **unreasonable burdens** and to **promote public access to information**." (Emphasis mine)

Open Media Boston is limited to two full-time staff members, and has insubstantial *operating funds*. Open Media Boston is the sole media outlet to regularly report on important civil disputes in Massachusetts, and the Greater Boston Area in particular; eschewing sensationalist news reporting on criminal cases in favor of issues important to an informed democracy. Open Media Boston began using the PACER system in May 2013, and it has since proved an invaluable resource in the organization's effort to inform the public. However, with minimal operating funds, the discretionary fee for accessing the PACER system has proven an unreasonable burden, limiting our ability to promote public access to information adequately.

According to the Fee Schedule, "the user receiving the exemption must **agree not to sell the data** obtained as a result, and must not transfer any data obtained as the result of a fee exemption, unless expressly authorized by the court; and the exemption should be granted for a **definite period of time**, should be **limited in scope**, and may be revoked at the discretion of the court granting the exemption." (Emphasis mine)

As the Open Media Boston reporter responsible for covering the court system, and as an existing US District Court of Massachusetts Media Identification Card holder, Number: 13-10114, I request that the fee waiver be limited in scope to my existing PACER account, and for the definite period of time ending with the expiration of that card on 5/23/16.

Neither I, nor any other employee of noncommercial Open Media Boston will sell data obtained through the PACER system.

Thank you for taking the time to consider this request. If you have any queries, please contact me at my phone number or e-mail address, below. Please send mail in regard to this matter to my personal address, above.

Yours Sincerely,

Jonathan Adams

Associate Editor, Open Media Boston

Ph: 339-545-6702, E: jadams@openmediaboston.org